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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,663	10/20/2000	Jonathan J. King	STE01 P-1069	7520

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EXAMINER

DORSEY, DENNIS

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/692,663

Applicant(s)

KING ET AL.

Examiner

Dennis L Dorsey

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 12, 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 7-11, 13-16 and 19-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. The indicated allowability of claims 27-31 is withdrawn in view of the newly discovered reference(s) to Mixer Patent Number 758,088. Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox et al. Patent Number 5,606,919.

Fox '919 teaches all the limitations of the above claims including a partition frame with a horizontally extending upper frame (12') with upper edge, pair of horizontally spaced apart vertical frame members (16'), lower portion (12), horizontally extending U-shaped (see figure 12) raceway (13') spaced vertically from upper frame (12'), first and second vertically extending support members (11'), a connector (32') for connecting to partition frame (12'), and a pair of flexible flaps (113, see Figure 2) closes off top of raceway.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 13-16, 19-24, and 32-33 are rejected under 35 U.S.C. 102(a) as being anticipated by Rothschild Patent Number 6,023,896.

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Rothschild '896 teaches all the limitations of the above claims including a first and second partition frame (12) of standard design and heights determined by the site (column 7, lines 57-61) configured to abut, elevated u-shaped raceway (56) that telescopes to different heights spaced generally parallel above the first and second partition frames, horizontal row of openings (column 7, lines 43-46), vertical utility conduit (60), clip (62), receptacle (14), support (70) received in groove of raceway (56), first and second partition frames can be positioned at different heights, and the outer end raceway vertical support member(52) spaced horizontally from inner pair of vertical frame members (18, 20, see Figure 3).

5. Claims 25-26 are rejected under 35 U.S.C. 102(a) as being anticipated by Chau et al. Patent Number 6,101,773.

Chau '773 teaches all the limitations of the above claims including a partition frame (10) with vertical frame member (42), a pair of vertical rows of openings (50) opening outwardly, and clips (58) for routing utility lines with a pair of extensions (68) extending inwardly towards one another on faces (60).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild Patent Number 6,023,896 in view of Mixer Patent Number 758,088.

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Rothschild '896 teaches all the limitations of the above claims except a sheet extending in vertical openings of the vertical members. Rothschild '896 teaches a partition frame (12) with a base configured to support the frame freestanding, elevated u-shaped raceway (56) that telescopes to different heights spaced generally parallel above, horizontal row of openings (column 7, lines 43-46), vertical utility conduit (60), clip (62), receptacle (14), support (70) received in groove of raceway (56), flexible flaps (74) for extending over and generally closing off U-shaped portion, and sheet (58) supported above horizontal member. Mixer '088 teaches a generally rectangular frame with vertical members (1) with vertical elongated openings to slide a sheet through to be supported above horizontal member. It would have been obvious for one skilled in the art to modify the Rothschild '896 invention and provide elongated openings in the vertical supports to support the sheet (58) as taught by Mixer '088 to reduce the number of sheets needed to close off the top portion of the partition, since it is held to be within the skill of a worker in the art to provide the elongated openings as a matter of obvious design choice.

### ***Response to Arguments***

8. Applicant's arguments filed June 30, 2003 have been fully considered but they are not persuasive. The Examiner maintains that as written the Fox '919 reference teaches all the limitations of the amended claim 7. The inclusion of a connector is broad in the sense of its structural relationship with the support and upper frame member. Further, there is no structural limitations set forth for definition of the connector, thus the opening used to connect the partition frame meets this limitation.

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The arguments to claim 13, again rely on limitations that are not completely set forth in the claim. Claim 13 requires that the first and second partition frames have different heights due to being positioned at different elevations when positioned on the floor. Thus, one could have a floor with different elevations, a step down section, position two partition frames next to each other and they will have different elevations. The amendments for claim 25 are broad and vague as well and are clearly met with the Chau '773 reference.

***Allowable Subject Matter***

9. Claims 1-6, 12, and 17-18 are allowed.

***Conclusion***

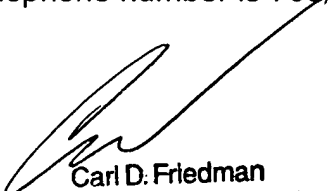
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600